

State of New Hampshire  
Division of Plant and Property Management  
Bureau of Purchase and Property  
25 Capitol Street, State House Annex  
Concord, New Hampshire 03301-6398

Date: June 15, 2004

Bid No.: 466

Date of Bid Opening: June 30, 2004  
Time of Bid Opening: 2:00

PLEASE DIRECT ANY QUESTIONS REGARDING THIS BID TO: ROBERT B. LAWSON

TEL. NO: (603) 271-3147

**BID INVITATION FOR: STATEWIDE CONTRACT FOR UNINTERRUPTIBLE POWER SUPPLY MAINTENANCE SERVICE**

Unless specifically amended or deleted by the Division of Plant and Property Management, the following General Terms and Conditions apply to this Bid Invitation and any resulting Purchase Order or Contract.

**GENERAL CONDITIONS FOR BIDDING:**

**NATURE OF, AND ELIGIBILITY TO BID.** This bid invitation is submitted in accordance with Chapter 21-1, and rules promulgated thereunder, and constitutes a firm and binding offer. A bid may not be withdrawn unless permission is obtained from the Bureau of Purchase and Property.

Bid invitations may be issued only by the Bureau of Purchase and Property and are not transferable.

**SAMPLES AND DEMONSTRATIONS.** When samples are required they must be submitted free of costs and will not be returned.

Items left for demonstration or evaluation purposes shall be delivered and installed free of charge and shall be removed at no cost to the State. Demonstration units shall not be offered to the State as new equipment.

**BIDS.** Bids must be received at the Bureau of Purchase and Property before the date and time specified for the opening. Bids must be submitted on this bid form or exact copies and must be typed or clearly printed in ink. Corrections must be initialed. Bids are to be made less Federal Excise Tax and no charge for handling unless required by law.

Bids will be made available to the public after the time of award. Bid results will be given by mail only if requested in writing and accompanied by a self-addressed, stamped business size envelope.

**SPECIFICATIONS.** Bidders must bid on items as specified. Proposed changes must be submitted in writing and received at the Bureau of Purchase and Property at least five (5) working days prior to the bid opening. Bidders shall be notified in writing if any changes to the bid specifications are made.

**AWARD.** The award will be made to the responsible bidder submitting a conforming bid meeting specifications at the lowest cost unless other criteria are noted in the bid invitation. Unless otherwise noted, the award may be made by individual items.

If there is a discrepancy between the unit price and the extension, the unit price will prevail.

When identical low bids are received the award will be made in accordance with the Administrative Rules.

Discounts will not be considered in making award but may be offered on the Invoice for earlier payment and will be applicable on the date of completion of delivery or receipt of Invoice, whichever is later. On orders specifying split deliveries, discounts will apply on the basis of each delivery or receipt of Invoice, whichever is later.

**PATENT INFRINGEMENT.** Any bidder who has reason to believe that any other bidder will violate a patent should such responding bidder be awarded the contract shall set forth in writing, prior to the date and time of bid opening, the grounds for his belief and a detailed description of the patent.

**ASSIGNMENT PROVISION.** The bidder hereby agrees to assign all causes of action that it may acquire under the antitrust laws of New Hampshire and the United States as the result of conspiracies, combinations, or contracts in restraint of trade which materially affect the price of goods or services obtained by the state under this contract if so requested by the State of New Hampshire.

**FEDERAL FUNDS.** This Division of Plant and Property Management, under RSA 21-1:14, VIII shall assure the continuation or granting of federal funds or other assistance not otherwise provided for by law by following the Federal Procurement Standards.

**STATE'S OPTIONS:** The Bureau of Purchase and Property reserves the right to reject or accept all or any part of any bid, to determine what constitutes a conforming bid, to award the bid solely as it deems to be in the best interest of the State, and to waive irregularities that it considers not material to the bid.

**PUBLIC INFORMATION:** Bidder hereby acknowledges that all information relating to this bid and any resulting order (Including but not limited to fees, contracts, agreements and prices) are subject to these laws of the State of New Hampshire regarding public information.

**PERSONAL LIABILITY:** Bidder agrees that in the preparation of this bid or the execution of any resulting contract or order, representatives of the State of New Hampshire shall incur no liability of any kind.

**PROOF OF COMPLIANCE.** The bidder may be required to supply proof of compliance with bid specifications. When requested, the Bidder must immediately supply the Bureau of Purchase and Property with certified test results or certificates of compliance. Where none are available, the State may require independent laboratory testing. All costs for such testing, certified test results or certificate of compliance shall be the responsibility of the responding bidder.

**FORM OF CONTRACT.** The terms and conditions set forth in any additional Terms and Conditions by the Bureau of Purchase and Property are part of the bid and will apply to any contract awarded the bidder unless specific exceptions are taken and accepted and will prevail over any contrary provisions in Terms and Conditions submitted by the bidder.

**OFFER.** The undersigned hereby offers to sell to the State of New Hampshire the commodities or services indicated in the following page(s) of this Bid at the price(s) quoted in complete accordance with all conditions of this Bid.

**Company**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Tel.:(local)** \_\_\_\_\_ **(Toll free)** \_\_\_\_\_

**Fax#:** \_\_\_\_\_

**Authorized**

**Signature:** \_\_\_\_\_

**(TYPE OR PRINT NAME)**

This document must be signed by a person who is authorized to legally obligate the bidder. A signature on this document indicates that all State of New Hampshire terms and conditions are accepted by the bidder and that any and all other terms and conditions submitted by the bidder are null and void, even if such terms and conditions have terminology to the contrary. Bidder shall also be subject to State of New Hampshire terms and conditions as stated on the reverse of the purchase order.

## CONTRACT TERMS AND CONDITIONS

1. The State of New Hampshire, acting through the Division of Plant and Property Management, engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State documents, if any, and the Vendor's bid or quotation, both of which are incorporated herein by reference.

**2. COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws. In addition, the Vendor shall comply with all applicable copyright laws.

**3. TERM.** The contract, and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.

**4. CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the bid invitation and the Vendor's bid. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the contractor and complete payment for the Services. The State shall have no other liability to the Vendor.

**5. DELIVERY.** If the vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may re-purchase similar items from any other source without competitive bidding, and the original vendor may be liable to the state for any excess costs.

If a vendor is unable to complete delivery by the date specified, he must contact the using agency. However, the agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipments. All deliveries shall be FOB Destination.

**6. INVOICING.** All invoices must be in triplicate showing Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the invitation to bid or purchase order, payment will not be due until thirty (30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received at the agency business office, whichever is later.

### **7. PERSONNEL.**

**7.1.** The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.

**7.2.** The person signing this agreement on behalf of the State, or his or her delegee ("Contracting Officer") shall be the State's representative for purposes of this agreement. In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.

### **8. EVENT OF DEFAULT; REMEDIES.**

**8.1.** Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default"):

**8.1.1.** failure to deliver the goods or services satisfactorily or on schedule; or

**8.1.2.** failure to submit any report required hereunder; or

**8.1.3.** failure to perform any of the other covenants and conditions of this agreement.

**8.2.** Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

**8.2.1.** give the Vendor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this agreement, effective two (2) days after giving the Vendor notice of termination; and

**8.2.2.** give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under this agreement and ordering that the portion of the Contract Price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default, shall never be paid to the Vendor; and

**8.2.3.** set off against any other obligation the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; and

**8.2.4.** treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof regarding any further or other default on the part of the Vendor.

**10. VENDOR'S RELATION TO THE STATE.** In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

**11. ASSIGNMENT AND SUBCONTRACTS.** The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

**12. INDEMNIFICATION.** The contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

**12.1 PATENT PROTECTION.** The vendor agrees to indemnify and defend the State of New Hampshire from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3). (Uniform Commercial Code).

**13. TOXIC SUBSTANCES.** In compliance with RSA 277-A known as the Workers Right to Know Act, the vendor shall provide Material Safety Data Sheets with the delivery of any and all products covered by said law.

**14. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given below.

**15. AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

**16. CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

**17. ADDITIONAL PROVISIONS.** The additional provisions (if any) have been set forth as Exhibit "A" hereto.

**18. ENTIRE AGREEMENT.** This agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

# **GENERAL TERMS AND CONDITIONS**

## **PURPOSE**

The purpose of this bid invitation is to establish a contract for Uninterruptible Power Supply Maintenance Services. This service will be used by the State of New Hampshire agencies and institutions and political sub-divisions and authorized non-profit organizations as needed, during the term of the contract, in accordance with the requirements of this bid invitation and any resulting contract.

## **VENDOR CERTIFICATIONS**

Prior to award of a contract, the vendor must be duly registered as authorized to conduct business in the State of New Hampshire.

### **STATE OF NEW HAMPSHIRE VENDOR APPLICATION**

Vendors must have a completed Vendor Application and W-9 Form must be on file with the NH Bureau of Purchase and Property. See the following website for information on obtaining and filing the required forms (no fee): [www.admin.state.nh.us/purchasing/bids.asp](http://www.admin.state.nh.us/purchasing/bids.asp)

### **NEW HAMPSHIRE SECRETARY OF STATE REGISTRATION**

A person or persons conducting business under any name other than his/her own legal name must register with the NH Secretary of State. Businesses are classified as 'Domestic' (in-state) or 'Foreign' (out-of-state). Please visit the following website to find out more about the requirements and filing fees for both classifications:

<http://www.nh.gov/sos/corporate>

## **SUBCONTRACTORS**

The vendor shall be solely responsible for meeting all requirements and terms and conditions specified in this RFB, its response, and any resulting contract. The vendor must describe in its bid any intended use of subcontractors or 3<sup>rd</sup> parties.

## **WARRANTIES**

The vendor warrants that all equipment to be installed under the terms of this contract will be in good working order and will conform to the original equipment manufacturer's warranty.

## **ELIGIBLE PARTICIPANTS**

Political sub-divisions (counties, cities, towns, school districts, special district or precinct, or any other governmental organization), or any nonprofit agency under the provisions of section 501c of the federal internal revenue code, shall be eligible to participate under this contract whenever said sub-division or nonprofit agency so desires. Political sub-divisions and authorized non-profit organizations shall utilize their own individually established ordering procedures. The State shall not be liable for any breach of contract by these entities.

## **CONTRACT TERM**

The term of this contract shall be from the date of award through October 31, 2006. The contract may be extended for additional periods of time thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the vendor and the Bureau of Purchase and Property.

The State of New Hampshire shall have the right to terminate the contract at any time by giving the vendor a thirty (30) day written notice.

## **SUBMISSION OF RESPONSE**

The RFB response must conform to the following criteria to be considered for award:

- Bids must be delivered in sealed packages, and permanently marked showing the following information on the outside of the package:

Vendor's Name and Address  
RFB Title and Number  
Date of Bid Opening

### **“SEALED BID” “STATEWIDE CONTRACT FOR UPS MAINTENANCE SERVICES”**

- Include a printout of this entire RFB with completed and signed Form P-31 A.
- The bid must be delivered to the following address. Any package delivered to any other location of the State, will not be honored as received.

Bureau of Purchase and Property  
C/o Robert Lawson  
25 Capitol Street, 1st Floor  
Concord, NH 03301  
(603) 271-3147

All responses must be received in the Bureau of Purchase and Property on or before the Date of Bid Opening as indicated on Form P-31 A, in the front of this bid package. Vendors mailing their proposals must allow for sufficient time for delivery by the deadline. Bids received in the Bureau of Purchase and Property later than the specified date and time will not be considered.

## **INQUIRIES**

The Bureau of Purchase and Property has issued this RFB for the State of New Hampshire. Questions regarding this RFB may be addressed by e-mail to:

<mailto:Mark.Vernon@nh.gov>

and must be received on or before 5 days prior to the Date of Bid Opening. Inquiries received after this date will be addressed only if they are deemed by the State to be critical to the competitive selection process.

### **CANCELLATION OF RFB**

The State reserves the right to cancel this solicitation at any time prior to contract award, in which case all responses will be rejected.

### **ADDENDUM**

In the event it becomes necessary to add to or revise any part of this RFB prior to the bid opening, the Bureau of Purchase and Property will post on our web site any addenda. Before submission, always check the site for any addenda or other materials that may have been issued. The web site address is <http://www.admin.state.nh.us/purchasing/bids.asp>

### **AUDITS AND ACCOUNTING**

The successful bidder shall allow representatives of the State of New Hampshire to have complete access to all records for the purpose of determining compliance with the terms and conditions of this bid invitation and in determining the award and for monitoring any resulting contract.

At intervals during the contract term, and prior to the termination of the contract, the successful bidder may be required to provide a complete and accurate accounting of all products and quantities ordered by each agency and institution and by political sub-divisions and authorized non-profit organizations.

### **SERVICE RATES**

The prices agreed to in this document shall remain firm for the entire term of the contract.

### **ORDERING PROCEDURE**

Orders for service will be placed using the State's purchase order form, the P-28. Delivery schedules will be established and agreed to by the agency requiring the service and the vendor.

### **INVOICING**

Invoices shall clearly indicate the quantity, description, packaging, date of delivery, contract price etc. Contractor will be required to invoice each State Agency separately.

### **CONTRACT AWARD**

The award of the contract shall be based upon the lowest bid as shown in the last cell of Table 2. Cost Proposal.

### **SPECIFICATIONS**

This section describes the minimum technical and administrative requirements for the services to be provided by the vendor.

**Table 1. Reconditioning Service Requirements for  
Uninterruptible Power Supplies (UPS)**

Requirement Number	Requirement Description
1	Internal and external inspection and cleaning of the entire unit.
2	New battery replacement, in accordance with manufacturer's battery pack specifications. Disposal of defective and worn out batteries in accordance with industry standards.

3	Repair of electronic components (up to \$30.00 in component parts - prior approval for repairs exceeding \$30.00) and disposal of defective components in accordance with industry standards.
4	Re-calibration of UPS to the manufacturer's original specifications.
5	Full UPS load testing, via computerized supplied power, and visual QC checks.
6	Inbound and outbound shipping or pickup included in cost of reconditioning the UPS unit from a designated facility.
7	Provide a high stress-shipping container, high density shipping inserts for the unit's protection.
8	Service is completed within 2 business days from time UPS unit is received.
9	Vendor will have a battery back-up loaner program available so the State can have protection while the UPS units are being reconditioned.
10	Twenty-four (24) month warranty on ALL parts and service, related to any subsequent service issues, with respect to the reconditioned unit and it's subsequent performance.
11	Provide the option for an extended warranty to 36 months.
12	The vendor must dispose of all UPS and parts that have been determined as un-repairable.
13	Capability to service all commercially available UPS brands and models including APC, HP, SmartUPS and Symettra.

### **BIDDER REFERENCES**

Each bidder is to supply three references with contracts for services similar to the State's. Please include company name, address, contact name, e-mail address and telephone number.

### **COST PROPOSAL**

Bidder hereby offers to provide UPS Maintenance Services to the State of New Hampshire in accordance with all of the requirements of this bid at the following prices for the entire contract term:

**Table 2. Cost Proposal**

Instructions: All unshaded cells must be filled in with dollar amounts. This table contains a representative sample of UPS units installed in the State. Per requirement 13, Table 1, the vendor must be capable of servicing all commercially available units.

UPS Model	Cost to provide Service Requirements (from Table 1)				
	1. Inspection and cleaning	2. Battery replacement	4. Recalibration	5. Load testing	Total
APC Smart-UPS SU 420					
APC Smart-UPS AP 900					
APC Smart-UPS SU 1400					
APC Smart-UPS SU 2200					
APC Smart-UPS SU 3000					
APC Back-UPS BK200					
APC Back-UPS Pro BP280B					
APC Smartcell XR					
HP UPS L600					
Smartups BTTY SU48XLBP					
SYMETTRA SY BATT					
Totals					1

<sup>1</sup> Contract award will be based on the amount shown in this cell  
UPS Maintenance Services Statewide Contract nnn

## **PRICING STRUCTURE**

The bidder must provide a description of the pricing structure that can be used throughout the term of the contract. If accepted, this pricing structure will be used to establish the auditable cost basis for all product pricing.

## **BID RESULTS**

Bid results will not be given over the telephone. Bid results will be mailed to you if you include a self-addressed envelop with the correct amount of postage on it. Bid results may also be viewed on our web site at: <http://admin.state.nh.us/purchasing/bids.asp>

## STATE OF NEW HAMPSHIRE APPROVAL SIGNATURE PAGE

\* \* \* \* \*

Proposed By: \_\_\_\_\_

Robert Lawson  
Purchasing Agent  
Purchase & Property

Date Proposed: \_\_\_\_\_

Recommended By: \_\_\_\_\_

Robert D. Stowell,  
Administrator  
Purchase & Property

Date Recommended: \_\_\_\_\_

Endorsed By: \_\_\_\_\_

Michael P. Connor  
Director,  
Plant & Property Mgt.

Date Endorsed: \_\_\_\_\_

Approved By: \_\_\_\_\_

Donald S. Hill  
Commissioner,  
Dept. Of Adm. Serv.

Date Approved: \_\_\_\_\_